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Plaintiff in Pro Per

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Attorneys for Defendants  
Apex Systems, LLC, AT&T Corp.,  
DIRECTV, LLC, Mehak Delawalla,  
Kim Chu, John Goulding, Ian  
Hafkenschiel and Daniel Salt

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

Russell J Terry,

Plaintiff,

vs.

Apex Systems, LLC, AT&T, DirecTV,  
LLC, Mehak Delawalla, Kim Chu, John  
Goulding, Oscar Montoya, Ian  
Hafkenschiel, Daniel Salt

Defendants.

Case No.: CV23-7707-FMO(JCx)

**JOINT RULE 26(f) REPORT**

**Scheduling Conference**

Date: January 18, 2024

Time: 10:00 AM

Judge: Hon. Fernando Olguin

Courtroom 6D

1 Plaintiff RUSSELL J TERRY (“Plaintiff”) and Defendants APEX  
 2 SYSTEMS, LLC, AT&T, DIRECTV, LLC, MEHAK DELAWALLA, KIM CHU,  
 3 JOHN GOULDING, IAN HAFKENSCHIEL, DANIEL SALT (“Defendants”)  
 4 respectfully submit the following Joint 26(f) Report.

5 Plaintiff and counsel for the Defendants held a telephonic planning meeting  
 6 on December 21, 2023.

### 7 JOINT RULE 26(F) REPORT

#### 8 **A. Statement of the Case:**

9 1. Plaintiff’s Position: The Plaintiff, having faced retaliation following  
 10 reports of FBI misconduct affecting him, his family, and his employment,  
 11 ceased contact with his family to prevent them from being harassed. A week  
 12 after testifying about the retaliation, he was contacted by Ms. Delawalla  
 13 from Apex Systems. She falsely presented an employment opportunity at  
 14 AT&T, that closely fit his skill set. Before the interview, she directed him to  
 15 review the LinkedIn profiles of the interviewers, including Mr. Salt, who  
 16 falsely identified himself as an AT&T employee. During the two-week  
 17 interview, the interviewers continually shifted the skill requirements. They  
 18 emotionally entangled him by constantly suggesting he was close to securing  
 19 the position, only to then demand proficiency in unrelated programming  
 20 languages.  
 21

22 Under the false promise of a forthcoming contract, Ms. Delawalla requested  
 23 the Plaintiff’s social security number and an address for the contract. Given  
 24 the remote nature of the job and his unstable residence in Brazil, the Plaintiff  
 25 provided his parents' address in Arizona. On October 1<sup>st</sup>, Ms. Delawalla was  
 26 fully aware the Plaintiff was residing in Brazil, email correspondence  
 27 displays she double checked to see if the VPN would work outside of the  
 28 United States.

1 Ms. Delawalla deceitfully used his social security number and address to  
2 create a false profile on the Apex portal. Under this guise, she completed  
3 compliance documents in the Plaintiff's name and emailed him an agreement  
4 from the portal, giving the illusion of a legitimate onboarding process. This  
5 agreement, however, exposed the deceptive profile, and falsified compliance  
6 documents. Furthermore, she presented the Plaintiff with a fake offer letter,  
7 not a contract as promised.

8 The Plaintiff, without having completed any steps in the hiring process, was  
9 deceived that John Goulding of DirecTV had sent a company laptop to the  
10 Arizona address. Mr. Goulding had informally obtained the Plaintiff's  
11 information and authorized the package's release without a signature,  
12 contrary to FedEx's policy. Ms. Delawalla claimed the laptop was shipped  
13 when she instructed DirecTV to hold off, she contacted the Plaintiff over 2-  
14 hours before its delivery and instead of rerouting the shipment through  
15 FedEx, she pressured the Plaintiff to involve his parents. The Plaintiff, upon  
16 realizing this was a setup to distress him and his elderly parents, felt  
17 compelled to comply, fearing escalating retaliation. Both he and his mother  
18 faced harassment through repeated calls and messages, as Ms. Chu and Ms.  
19 Delawalla continuously tried to force the Plaintiff to contact his family  
20 directly.  
21

22 This prolonged deception, lasting nearly a month, has resulted in enduring  
23 emotional distress for the Plaintiff, severely hindering his ability to obtain  
24 gainful employment and heightening his fears and anxieties.

25 2. Defendants' Position: Plaintiff, an applicant for employment with  
26 Apex Systems, LLC, claims that Defendants engaged in a wide-ranging  
27 conspiracy with the apparent purpose of getting him to contact his parents.  
28 Plaintiff's allegations rest on Defendants somehow becoming aware of

1 Plaintiff's actions in an unspecified and unrelated legal proceeding and  
 2 agreeing with unknown third parties to engage in a false job interview  
 3 process. Had Plaintiff been upfront during the job interview process that he  
 4 resided in Brazil instead of falsely providing his parents' address in Arizona  
 5 as his residence, Defendants would not have had any reason to contact  
 6 Plaintiff's parents to arrange for return of a company-provided laptop  
 7 computer shipped to their address in anticipation of his employment.  
 8 Plaintiff has no basis for recovery and has suffered no damages.

9  
 10 **B. Subject Matter Jurisdiction:**

11 This Court has subject matter jurisdiction over this action pursuant to 28  
 12 U.S.C. § 1332, as there is complete diversity of citizenship among the  
 13 parties and the amount in controversy exceeds \$75,000, exclusive of interest  
 14 and costs.

15 Diversity Jurisdiction, pursuant to 28 U.S.C. § 1332, this Court has  
 16 jurisdiction over the present matter due to the existence of diversity of  
 17 citizenship between the plaintiff and the defendants. The plaintiff is a citizen  
 18 of the United States and is residing in Brazil as a permanent resident. The  
 19 defendants Apex Systems and AT&T / DirecTV have operations in Los  
 20 Angeles, California. Defendants Mehak Delawalla, Kim Chu, Oscar  
 21 Montoya, Ian Hafkenschiel, and John Goulding are citizens of California  
 22 and defendant Daniel Salt is a citizen of Florida.

23 **C. Legal Issues:**

24 1. Plaintiff's Position:

25 The legal issues to be decided in this case include:

26 Personal Jurisdiction for defendant Daniel Salt. Whether his employment  
 27 with a California company and his involvement with his California  
 28 colleagues in the allegations gives the court personal jurisdiction over Mr.

1 Salt based under the 14th Amendment S1.7.1.4 Minimum Contact  
2 Requirements.

3 Intentional Misrepresentation: This issue examines whether the defendants  
4 knowingly made a false representation to the Plaintiff or were reckless about  
5 its truth. The focus is on whether the defendant intended the Plaintiff to rely  
6 on this misrepresentation, whether the Plaintiff's reliance was reasonable,  
7 and if this reliance led to harm. Additionally, the court will assess if this  
8 reliance significantly contributed to the Plaintiff's harm.

9 Intentional Infliction of Emotional Distress: This issue examines if the  
10 defendant's conduct was extremely outrageous and beyond acceptable  
11 norms. If the defendant intended to cause or recklessly disregarded the risk  
12 of causing the Plaintiff severe emotional distress. It is crucial to establish  
13 that the Plaintiff experienced profound emotional distress as a direct result of  
14 the defendant's actions and that this conduct was a key factor in causing such  
15 distress.

16 Conspiracy to commit Intentional Misrepresentations: Conspiracy to  
17 Commit Intentional Misrepresentations: This issue revolves around whether  
18 the defendants conspired to make intentional misrepresentations that harmed  
19 the Plaintiff. The court will consider whether the co-conspirators committed  
20 a tort resulting in harm to the Plaintiff and if the other defendants can be  
21 held responsible for this harm. Key factors include whether the defendants  
22 were aware of the co-conspirator's plans to commit the tort and if there was  
23 an implied agreement to participate in these misrepresentations, as indicated  
24 by their conduct. This may involve assessing their awareness and intent  
25 regarding the misrepresentations. It's important to note that proving direct  
26 involvement in the wrongful act or full knowledge of all conspiracy details  
27  
28

1 for each defendant is not required. Liability can be inferred from the overall  
2 circumstances and the nature of the defendants' participation.

3 Conspiracy for Intentional Infliction of Emotional Distress (IIED): the same  
4 legal issues as conspiracy to commit the tort of intentional  
5 misrepresentations, but the tort is IIED.

6 Stalking: The legal question here is whether the defendants' actions can be  
7 legally classified as conduct intended to follow, alarm, and harass the  
8 Plaintiff. Key considerations include whether the Plaintiff reasonably feared  
9 for the safety of his parents due to the defendants' actions, or if he suffered  
10 substantial emotional distress as a result. The court will also examine if the  
11 defendants' conduct constituted a credible threat, causing the Plaintiff to fear  
12 for his or his parents' safety, or if it demonstrated reckless disregard for their  
13 safety. Additionally, the court will assess the adequacy of the Plaintiff's  
14 efforts to cease the pattern of conduct or if the circumstances were too  
15 unsafe for the Plaintiff to explicitly demand that the defendants cease their  
16 harassing behavior towards him and his parents.

17 Intrusion into Private Affairs: Whether the Plaintiff had a reasonable  
18 expectation of privacy of his personal data. If defendants intruded upon his  
19 expectation of privacy. If the intrusion would be highly offensive to a  
20 reasonable person. If the Plaintiff was harmed and the conduct of the  
21 intrusion was a substantial factor in causing the harm.

22 Vicarious Liability under California's Doctrine of Respondeat Superior:

23 Consideration of whether the employer is vicariously liable for the actions of  
24 its employees to commit intentional misrepresentations and intentional  
25 infliction of emotional distress under the doctrine of respondeat superior. If  
26 there was an agent/employee relationship and that agent/employee was  
27  
28

1 acting within the scope of their agency/employment when they harmed the  
2 Plaintiff.

3 Negligent Infliction of Emotional Distress: Whether the defendant owed a  
4 duty of care to the Plaintiff, which is a legal question determined by the  
5 foreseeability of the risk and a balance of policy considerations. The court  
6 will assess if the defendants breached a foreseeable duty of care and if this  
7 breach was a significant factor in causing emotional distress to the Plaintiff.

8  
9 2. Defendants' Position:

- 10 a. This Court does not have personal jurisdiction over Defendant  
11 Daniel Salt.  
12 b. Defendant Oscar Montoya has not been served with the operative  
13 complaint.  
14 c. Defendants' Motion to Dismiss the Third Amended Complaint is  
15 pending and scheduled to be heard on January 18, 2024.

16 **D. Parties and Evidence**

17 1. Parties:

18 Plaintiff: Russell Terry

19 Defendants:

- 20 • Apex Systems, LLC. Defendant Apex Systems, LLC is a division  
21 of ASGN Inc.  
22 • AT&T Corp. Defendant AT&T Corp. is owned by its parent  
23 corporation, AT&T Inc.  
24 • DIRECTV, LLC. Defendant DIRECTV, LLC is a wholly-owned  
25 subsidiary of DIRECTV Holdings LLC. DIRECTV Holdings LLC  
26 is a wholly-owned subsidiary of DIRECTV Financing, LLC.  
27 DIRECTV Financing, LLC is a wholly-owned subsidiary of  
28

DIRECTV Financing Holdco, LLC. DIRECTV Financing, LLC is a wholly-owned subsidiary of DIRECTV Entertainment Holdings LLC. DIRECTV Entertainment Holdings LLC is jointly-owned by AT&T Inc. and TVG VIII Merlin Investment Holdings, L.P.

- Mehak Delawalla
- Kim Chu
- John Goulding
- Oscar Montoya
- Ian Hafkenschiel
- Daniel Salt.

2. Additional Parties:

- a. Plaintiff's Position: Unknown person involved with the interview. Additional parties may be added to the lawsuit.
- b. Defendants' Position: Defendants do not intend to add any parties to this action.

3. Witnesses:

- a. Plaintiff's Position: Apex Systems, LLC, Managing Director Matthew Cheney; testimony from Mehak Delawalla, Kim Chu, John Goulding, Oscar Montoya, Daniel Salt, Ian Hafkenschiel, will seek testimony from Apex Systems, LLC personnel, DIRECTV, LLC personnel, and AT&T personnel. Plaintiff's parents Alan Terry and Loujuana Terry  
US Consulate American Citizen Services, Brazil, Consulate Assistants  
FBI LEGAT Brazil
- b. Defendants' Position: Defendants intend to seek testimony from Plaintiff, as well as Alan Terry and Loujuana Terry, and will rely



upon testimony from Apex Systems, LLC personnel, DIRECTV, LLC personnel, and AT&T Corp. personnel involved in the job application process and interview of Plaintiff.

4. Evidence:

a. Plaintiff's Position:

**Proof of Law Enforcement Involvement**

1. Letter from the Department of Justice Office of Inspector General
2. Letter from Internal Affairs at the FBI, inviting additional information to be sent directly to Internal Affairs.

**Profiles / Employment history**

3. Email / Mehak / September 20, 2021: Mehak sends an email prior to the interview directing the Plaintiff to view Oscar Montoya, Ian Hafkenschiel and Daniel Salt's LinkedIn profiles.
4. Daniel Salt's LinkedIn profile: displays him as an AT&T employee, he also comments that Oscar was his direct manager. Oscar's LinkedIn profile shows he worked in El Segundo, CA.
5. Daniel Salt's Declaration: Daniel Salt claims he worked for Apex Systems, not AT&T. He also states he was never employed in California which conflicts with his LinkedIn profile and the offer letter from Apex Systems, which is from El Segundo, CA.
6. Memorandum for Motion to Dismiss (page 6, lines 27 -28), "Mr. Salt has performed no act in California and has no connection to California." Employment is considered a connection to California.
7. Offer letter from Apex Systems, electronically signed by Apex Managing Director Matthew Cheney.

8. Ian Hafkenshiel: LinkedIn profile, informing Oscar was his manager at DirecTV, displaying different technologies used in the job than what Mehak informed the Plaintiff.
9. Oscar Montoya: LinkedIn profile, displaying he was employed at both AT&T and DirecTV as manager at El Segundo, CA.
10. Skype message from John Goulding identifying himself as a DirecTV employee.
11. Return shipping label, identifying John Goulding as an AT&T employee.

To get at discovery

12. Employment verification of Daniel Salt, Ian Hafkenshiel, Oscar Montoya, Mehak Delawalla, Kim Chu, John Goulding, Matthew Cheney
  - a. Including title of job, job description, location, dates employed, direct manager, employer location, pay rate.
13. Records pertaining to interviewers, agreement to conduct interviews, Oscar Montoya, Ian Hafkenshiel and Daniel Salt.
14. The email from Mehak Delawalla on September 20<sup>th</sup>, provided the meeting link to someone's personal meeting room. Will verify whose personal meeting room is <https://attcorp.webex.com/meet/om951c>.
15. Verify who attended the interview.

**React Native opening at AT&T (Job position)**

16. Email from Mehak Delawalla / September 15th, 2021: detailing the Remote React Native Opening with AT&T. Showing job requirements.
17. LinkedIn profiles of Daniel Salt and Ian Hafkenshiel: displaying actual technologies used. Reveals different job requirements and technologies used than what was presented by Mehak Delawalla.

1 18.Emails Mehak / September 21 – 29<sup>th</sup>: Updating the take-home assignment to  
2 require programing of computer languages unrelated to the React Native  
3 position.

4 19.Take home test requirements attachments to the emails.

5 To get at Discovery

6 20.AT&T/ DirecTV contract with Apex Systems regarding React Native  
7 opening at AT&T

8 21.Apex Systems, DirecTV and AT&T records regarding React Native opening  
9 at AT&T/ DirecTV. (hiring manager, job requirements, qualifications,  
10 equipment provided, pay rate, compliance documents)

11 **Interview and Hiring**

12 22.Emails from Mehak of take-home test, Exhibit B, C, D, G, F, I, J of Third  
13 Amended Complaint.

14 23.Email from Mehak requesting address for the contract Exhibit K.

15 24.Offer Letter for ‘React Native at AT&T/DirecTV’ position (Exhibit L).

16 25.Emails regarding hiring process from Mehak.

17 26.Youtube video <https://www.youtube.com/watch?v=cLtjanesY8s&t=9s> (25  
18 seconds – 1 minute of the video). Tiffany Woolwine, Training and  
19 Development Specialist at Apex Systems, informs that all new recruits and  
20 recruiters have their own login to the platform for training and compliance  
21 document completion.

22 27.(Exhibit N) printout of Apex portal, Confidentiality and Invention  
23 Agreement

24 To get at Discovery

25 28.Apex Systems recruiting policy pertaining to AT&T and DirecTV hires.

26 a. Obtaining candidates personal information  
27  
28

- b. Federal and State compliance documents
  - c. Consent forms, data privacy, background check
  - d. Apex Portal policy, guidelines for new hires.
  - e. Offer letters, contracts.
29. Records pertaining to Offer Letter, Exhibit L, and involvement of Managing Director Matthew Cheney.
30. Records pertaining to the Plaintiff in Apex Portal, Exhibit N.
31. Records Apex Systems sent to AT&T and DirecTV pertaining to the Plaintiff.
32. Plaintiff's personal records at AT&T and DirecTV.

### **Shipment of the Package**

33. FedEx tracking information of the package.
34. Phone calls and messages from Mehak Delawalla and John Goulding.
35. Emails from Mehak Delawalla and Kim Chu regarding the recovery of the laptop.

### **Discovery**

36. AT&T and DirecTV policy for preparing and shipping a company laptop for Apex Systems, LLC hires.
37. DirecTV to acknowledge if a company laptop was released to the Plaintiff for the React Native opening.
38. Apex communication with John Goulding to hold off on shipping the laptop.
39. Proof of calls and emails from Kim Chu and Mehak Delawalla to Loujuana Terry.
40. Apex Systems, policy and procedures of Account Managers as it relates to new hires.
41. Apex Systems, policy on providing new hire data to AT&T / DirecTV.
42. Apex and DirecTV internal communications on recovery of the laptop.

1 43.UPS tracking information of the package returned to AT&T.

2 Proof of Retaliation / Stalking Conduct

3 44.Emails with Mother's email account (September 20 - 23, 2020, December  
4 25, 2020)

5 45.Emails with US Consulate (September 30, 2020 – July 16, 2021, March  
6 2022)

7 46.Department of Justice Records, Civil Rights Division Records

8 47.May 12, 2021, Office of Professional Responsibility complaint.

9 48.Police report from drug-induced robbery in Brazil May 21, 2021

10 49.Email on October 4, 2021, attempting to get Plaintiff to contact mother.

11 50.Emails with FBI LEGAT Brazil, FBI Investigator Rodolfo Paredes,  
12 November 2021

13 51.FBI records 11/11/2021

14 52.FOIA request Bureau of Consular Affairs (pending FOIA request expedited  
15 since July 25, 2023)

16  
17 Discovery

18 53.Plaintiff's testimony Brazil September 8, 2021

19  
20 b. Defendants' Position: Defendants intend to rely upon written  
21 correspondence with the Plaintiff and documents provided to  
22 Plaintiff as part of the interview process.

23 **E. Insurance**

24 Plaintiff has no insurance related to this matter.

25 Defendant Apex Systems, LLC has insurance that may apply to some or all  
26 of the claims alleged against it. Apex has tendered the claim to its insurer.  
27  
28

## F. Magistrate Judge

At this time the parties do not consent to have the case assigned to a Magistrate Judge for all purposes.

## G. Discovery

### 1. Plaintiff's Position:

The Plaintiff provided initial disclosures pursuant to the Federal Rules of Civil Procedure and court orders on January 3, 2024.

Plaintiff anticipates serving Requests for Admission, Interrogatories, Requests for Production and depositions.

Plaintiff does not anticipate using expert witnesses at this time.

Plaintiff does not agree to delay exchange of initial disclosures until January 31, 2024. Plaintiff request defense provide any initial disclosures in its possession according to the Federal Rules of Civil Procedures and court orders in order not to delay discovery.

Plaintiff's proposed the following discovery schedule:

- Fact discovery cut off: July 5, 2024
- Expert witness disclosures (initial): June 1, 2024
- Expert witness disclosures (rebuttal): July 1, 2024
- Expert discovery cut off: July 31, 2024
- Final date for hearing on dispositive motions: October 25, 2024

### 2. Defendants' Position:

During the December 21, 2023 telephonic conference regarding this joint report, Plaintiff agreed to exchange of initial disclosures by all parties on January 31, 2024. On January 3, 2024, Plaintiff informed Defendants' counsel that he no longer agreed to the January 31, 2024 exchange date.

Defendants relied on Plaintiff's agreement on December 21, 2023.

Defendants will serve their initial disclosures on or before January 11, 2024.

Defendants propose the following discovery schedule:

- Fact discovery cut off: July 5, 2024
- Expert witness disclosures (initial): June 1, 2024
- Expert witness disclosures (rebuttal): July 1, 2024
- Expert discovery cut off: July 31, 2024
- Final date for hearing on dispositive motions: October 25, 2024

#### **H. Motions**

1. Plaintiff's Position: Amended complaints, Addition of Plaintiffs and Defendants, Summary Judgment Motion and Discovery motion
2. Defendants' Position: Defendants expect to file a motion for summary judgment.

#### **I. Class Certification**

Not Applicable to this action.

#### **J. Dispositive Motions**

1. Plaintiff's Position: Final date for hearing on dispositive motions October 25, 2024
2. Defendants' Position: Defendants believe that each claim can be resolved via dispositive motion because each claim fails as a matter of law. Defendants propose a final date for hearing on dispositive motions of October 25, 2024.

#### **K. Settlement/ Alternative Dispute Resolution (ADR)**

The parties have not engaged in settlement discussions. Plaintiff is willing to discuss settlement.

The parties agree on conducting a settlement conference with a magistrate judge.

**L. Pretrial Conference and Trial**

1. Plaintiff's Position: Pretrial Conference in mid-November 2024 with a trial date in mid-December 2024.
2. Defendants' Position: Pretrial Conference in mid-November 2024 with a trial date in mid-December 2024.

**M. Trial Estimate**

1. Plaintiff's Position: Plaintiff estimates 4 days for a jury trial.
2. Defendants' Position: Defendants estimate a 2-3 day jury trial. Defendants anticipate calling 4 witnesses.

**N. Trial Counsel**

1. For Plaintiff: Russell Terry
2. For Defendants: Wendy Sugg, Sugg Law Group

**O. Independent Expert or Master**

The parties agree that an Independent Expert or Master is not needed.

**P. Other Issues**

1. Plaintiff's Position: No other issues at this time
2. Defendants' Position: Defendants ask to bifurcate the liability phase of discovery and trial from the damages phase as to all damages or, in the alternative, as to punitive damages only.

Dated: January 4, 2024

Russell J. Terry

By: /s/ Russell J. Terry

Russell J. Terry  
Plaintiff  
In Pro Per



1 Dated: January 4, 2024

SUGG LAW GROUP

2 By: /s/ Wendy Sugg

3 Wendy Sugg  
4 Attorney for Defendants  
5 Apex Systems, LLC, AT&T Corp.,  
6 DIRECTV, LLC, Mehak Delawalla,  
7 Kim Chu, John Goulding, Ian  
8 Hafkenschiel and Daniel Salt

9  
10 \*Pursuant to Local Rule 5-4.3.4(2), the filer attests that all signatories listed, and on  
11 whose behalf the filing is submitted, concur in the filing's content and have authorized  
12 the filing.